

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

RANDALL KIRK,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NUMBER
	)	3:07-cv-00957-WKW-TFM
STATE FARM FIRE AND	)	
CASUALTY COMPANY, et al.,	)	
	)	
Defendants.	)	

**PLAINTIFF'S SUPPLEMENTAL FILING IN SUPPORT OF**  
**PLAINTIFF'S MOTION TO REMAND**

Comes now Randall Kirk and hereby provides supplemental evidence in support of his motion to reman d as follows:

1. On or about November 6, 2007, plaintiff filed a motion to remand in this matter.

2. The undersigned filed similar motions to remand in the cases *Wyatt Finch v. State Farm Fire and Casualty Company, et al.* and *Annie Hawkins v. State Farm Fire and Casualty Company, et a l.* Those cases are identical to the case at bar. Honorable Myron Thompson granted the undersigned's motions in these cases on November 16, 2007. The Court specifically found that there was no

fraudulent joinder and have remanded these cases to Circuit Court. Copies of these orders are attached hereto as Exhibits A and B, respectively.

Respectfully submitted,

**s/ David J. Hodge**

Bar Number: ASB-5583-L73C

Of Counsel for Plaintiff

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on 16<sup>th</sup> day of **November, 2007**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

**s/ David J. Hodge**

Of Counsel

# **EXHIBIT A**

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

WYATT FINCH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	3:07cv952-MHT
	)	
STATE FARM FIRE AND	)	
CASUALTY COMPANY and	)	
DONNY HOLLEY,	)	
	)	
Defendants.	)	

ORDER

This lawsuit, which was removed from state to federal court based on diversity-of-citizenship jurisdiction, 28 U.S.C. §§ 1332, 1441, is now before the court on plaintiff's motion to remand. The court agrees with plaintiff that this case should be remanded to state court. The court agrees with plaintiff that there has been neither fraudulent joinder, Coker v. Amoco Oil Co., 709 F.2d 1433, 1440 (11th Cir. 1983); Cabalceta v. Standard Fruit Co., 883 F.2d 1553, 1561 (11th Cir. 1989),

nor fraudulent misjoinder, Tapscott v. MS Dealer Service Corp., 77 F.3d 1353, 1360 (11th Cir. 1996).

Accordingly, it is the ORDER, JUDGMENT, and DECREE of the court that plaintiff's motion to remand (Doc. No. 11) is granted and that, pursuant to 28 U.S.C. § 1447(c), this cause is remanded to the Circuit Court of Chambers County, Alabama.

The clerk of the court is DIRECTED to take appropriate steps to effect the remand.

DONE, this the 16th day of November, 2007.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE

# **EXHIBIT B**

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

ANNIE C. HAWKINS,

Plaintiff,

**V.**

STATE FARM FIRE AND  
CASUALTY COMPANY and  
DONNY HOLLEY,

Defendants .

CIVIL ACTION NO.  
3:07cv953-MHT

## ORDER

This lawsuit, which was removed from state to federal court based on diversity-of-citizenship jurisdiction, 28 U.S.C. §§ 1332, 1441, is now before the court on plaintiff's motion to remand. The court agrees with plaintiff that this case should be remanded to state court. The court agrees with plaintiff that there has been neither fraudulent joinder, Coker v. Amoco Oil Co., 709 F.2d 1433, 1440 (11th Cir. 1983); Cabalceta v. Standard Fruit Co., 883 F.2d 1553, 1561 (11th Cir. 1989),

nor fraudulent misjoinder, Tapscott v. MS Dealer Service Corp., 77 F.3d 1353, 1360 (11th Cir. 1996).

Accordingly, it is the ORDER, JUDGMENT, and DECREE of the court that plaintiff's motion to remand (Doc. No. 10) is granted and that, pursuant to 28 U.S.C. § 1447(c), this cause is remanded to the Circuit Court of Chambers County, Alabama.

The clerk of the court is DIRECTED to take appropriate steps to effect the remand.

DONE, this the 16th day of November, 2007.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE